

MAKING AN ADDITION TO A PUBLIC BUILDING AS A REPAIR.

The construction of additional rooms to the custom-house at New York City is not in the nature of a repair of the building, within the meaning of the appropriation for repairs and preservation of public buildings.

*(Comptroller Tracewell to the Secretary of the Treasury,
April 25, 1901.)*

In your communication of the 20th instant you request my decision of the following question:

"In order to provide necessary additional accommodations for the collector of customs in the custom-house, New York City, this Department is requested to construct certain additional rooms by having the spaces between the columns in the colonnade closed with light walls of steel, covered with metal, and furnished with windows, the inclosure thus formed to be finished with a suitable roof covering and divided into partitions; all as indicated on the inclosed plan. Access to these proposed new rooms is to be had by means of replacing certain of the windows in the present outside wall with doors.

"The Department has the honor to request to be advised whether in your opinion the expense of providing these rooms can be properly paid from the annual appropriation for 'Repairs and preservation of public buildings.'" (31 Stat., 591.)

This appropriation provides in terms for "repairs and preservation of public buildings" under the control of the

Treasury Department. The question of the applicability of this appropriation for the construction of an outhouse in the rear of the custom-house building at Norfolk, Va., "with a shed roof connecting with the main building," was considered by Comptroller Bowler in 1 Comp. Dec., 33. In deciding that the appropriation was not applicable he said:

"A strict construction of this provision would not authorize anything in the nature of improvements and additions to public buildings. By long practice, however, the appropriation has been considered available for the cost of slight changes in public buildings; as, for instance, the erection of partitions dividing one room from another, or screening off a portion of a room: * * * but it never has been held available for the purpose of paying the expense of erecting an outhouse or permanent addition to a building." * * *

The contemplated construction for the purpose of providing additional rooms for the accommodation of the collector appears to be in the nature of an addition or improvement inclosing additional space, and I do not think it can properly be regarded as a repair of the building. The practice referred to by Comptroller Bowler implies a very broad and liberal construction of the terms of the statute, and while I should be indisposed to change a construction sanctioned by a long-established practice, yet I do not think this practice furnishes any ground for further broadening the construction of the provision for repairs. I am therefore of opinion that the appropriation is not applicable to a new construction of the character contemplated.